

REMARKS

Receipt of the Office Action of April 14, 2010m is gratefully acknowledged.

Claims 16 - 30 have been reexamined and finally rejected as follows: under 35 USC 101 as directed to non-statutory subject matter; and under 35 USC 102(e) as anticipated by Choe.

Both of these rejections are respectfully traversed.

The rejection under 35 USC 101

The basis of this rejection is two-fold: (1) the claimed subject matter is neither tied to a machine or apparatus; and (2) the claimed subject matter does not perform a transformation.

Claims 16 - 30 are tied to a “machine”, i.e., to a sensor, which is structure; and “registering”, “storing”, “evaluating”, “predicting” are not abstract ideas , but functions which can be observed. There is nothing abstract about registering test parameters and there certainly is nothing abstract about storing test parameters.

In the ***Bilski v. Kappos*** case decided by the U.S. Supreme Court on June 28, 2010, the court dealt with business method claims, which are not present here. Here we have claims which are directed to a method as method is understood under 35 USC 100 (b). The steps defined are concrete and not abstract. The court in ***Bilski*** has cautioned us to give words their “ordinary, contemporary, common meaning” and not seek after formula which the statute never intended. When we do this, we are compelled to conclude that the claims here are statutory. Moreover, the claims being considered here do not convey an abstract idea but rather a method which can be carried out by a measurement setup for predicting a point in time for replacement of a sensor. Replacing a sensor is a concrete and tangible function, since the predicted point is is a representation of a state of a physical sensor.

Accordingly, the rejection under 35 USC 101 should be withdrawn.

The rejection under 35 USC 102(e)

Claim 1 has been amended to include the feature that the evaluation of the chronological development of the stored test parameters is achieved by "using a non-linear interpolation method for evaluating the historical development over time of the stored test parameters in order to obtain function parameters of a function describing the sensor behavior.

Claim 21 has been amended to include the additional step of issuing a corresponding warning or correspondingly initiating automatic cleaning measures, when the wear limit of the sensor will be reached before the next registering of test parameters. This is disclosed in paragraph [0016] of the publication pamphlet.

Choe does not disclose using a non-linear interpolation method for evaluating the historical development over time of the stored test parameters in order to obtain function parameters of a function describing the sensor behavior. The method disclosed by Choe involves a learning time for the measurement setup to learn thresholds of measuring parameters which are used to determine if the sensor functions properly. However, there is no step of using non-linear interpolation in order to obtain function parameters. Consequently, amended claim 16 is not anticipated by Choe, because as is well settled under 35 USC 102, each and every positively recited element or step must be unambiguously disclosed in a single reference. Choe fails this test.

New claims 31 - 36 are being presented at this time to complete the definition of the invention disclosed by this application. Accordingly, an RCE application is being filed at this time. In addition, to the addition of new claims 31 - 36, a further IDS is being submitted for the examiner's consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Felix J. D'Ambrosio', with a stylized flourish at the end.

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